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## **Attorneys For Defendant ELI LILLY AND COMPANY**

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

## SAN FRANCISCO DIVISION

STATE OF CALIFORNIA *ex rel.* JAYDEEN ) Case No. 07-cv-04911-CRB  
VICENTE and JAYDEEN VICENTE ) Assigned to: Hon. Charles R. Breyer  
Individually, )  
Relators, )  
v. )  
ELI LILLY AND COMPANY, )  
Defendant. )

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1       1. The hearing dates for three pending motions in this case—Defendant Eli Lilly and  
2 Company’s (“Lilly”) Motion to Dismiss, Lilly’s Motion to Stay and Relator’s Motion to Remand—  
3 are set for December 7, 2007. Because the Thanksgiving holiday falls within the midst of the  
4 briefing schedule on these motions, both parties will have only three business days to prepare replies  
5 (with Lilly having to file two separate replies), which are due on November 21, 2007.

6       2. If the November 21, 2007 deadline stands, counsel for Lilly will have an extremely  
7 limited time period to discuss Lilly’s replies with Lilly’s Indiana-based in-house counsel. Moreover,  
8 at least two of the attorneys on this matter for Lilly have had to, or will have to, cancel or modify  
9 their Thanksgiving air travel in order to accommodate this schedule.

10      3. On November 14, 2007, Lilly’s counsel contacted Relator’s counsel and suggested,  
11 in light of the tight schedule imposed by the Thanksgiving holiday, that the parties stipulate to  
12 additional time for the filing of reply briefs and a re-setting of the hearing date for a week or two  
13 after December 7<sup>th</sup>. Relator rejected this suggestion.

14      4. Late in the afternoon of November 15, 2007, Relator’s counsel contacted Lilly’s  
15 counsel asking whether Lilly would object to Relator filing a 25-page response brief. Notably,  
16 Relator received Lilly’s Motion to Dismiss on September 28, 2007, but waited over six weeks to  
17 make this request. Lilly offered to stipulate to the page extension if Relator agreed to Lilly’s earlier  
18 request to move the hearing date to enlarge the time available to respond and avoid the  
19 complications created by the Thanksgiving holiday. Relator not only refused but, in her current *ex*  
20 *parte* motion, failed to inform the Court of the offer made by Lilly and instead characterized Lilly’s  
21 offer as a “refusal” to stipulate. Relator has now filed an *ex parte* request seeking leave to file a  
22 brief in excess of this Court’s fifteen page deadline.

23      5. Granting Relator’s request will require Lilly to respond to two briefs, one of them 25  
24 pages in length, in less than three business days. While Lilly is prepared to file a reply in response to  
25 a brief adhering to this Court’s page limit, it would impose an unnecessary hardship on Lilly and its  
26 counsel to respond to a 25 page brief in such a short time period.

27      6. Lilly therefore respectfully requests that Relator’s motion be denied. Alternatively,  
28 should this Court grant Relator’s motion, Lilly requests that both Lilly and Relator be given until

1 December 7, 2007 to file their replies and that the hearing date on these motions be re-set for  
2 December 21, 2007. This additional time would be warranted both by the length of Relator's  
3 Motion to Dismiss response and the difficulty of filing two replies in the shortened period imposed  
4 by the Thanksgiving holiday.

5 WHEREFORE, Lilly respectfully requests that this Court deny Relator's *ex parte*  
6 motion to exceed the 15-Page Limitation on Opposition Briefs.

7  
8 Dated: November 16, 2007

SIDLEY AUSTIN LLP

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10  
11 By: s/ Timothy T. Scott

12 Attorneys For Defendant  
13 ELI LILLY AND COMPANY